



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
810 Vermont Avenue, NW
Washington, DC 20420

May 29, 2019

FOIA Request No.: 18-04199-F

Jasper Craven
MuckRock News
DEPT MR 47601
411A Highland Ave
Somerville, MA 02144

Dear Mr. Craven:

This letter is the initial agency decision to your January 10, 2018 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the Department of Veterans Affairs (VA) FOIA Service requesting all email correspondence between VA officials and officials at the Concerned Veterans for America with email addresses ending in "@cv4a.org" between Jan. 20, 2017 and present day. The search terms should include, but are not limited to, "trump" "Koch" "accountability" "Privatize" "Shulkin" "selnick" "VA".

As indicated within the February 16, 2018 letter, your request was referred to the Veteran Health Administration (VHA) Central Office FOIA Office for further processing and direct response to you. Your FOIA request was received in my office on February 14, 2018.

A search for VHA Central Office records, located in Washington, D.C., responsive to your request was conducted within the VA Office of Information Technology (OIT). The VA OIT office conducted an electronic search of the archived and encrypted emails on the account pertaining to Dr. Carolyn Clancy using the search terms of trump, koch, accountability, privatize, Shulkin, selnick, and VA for the timeframe of January 20, 2017 through January 10, 2018. At the conclusion of the search, seven (7) emails totaling seventy-six (76) pages, was responsive to your request.

My review of the documents revealed they contained information that falls within the disclosure protections of FOIA Exemption 6, 5 U.S.C. § 552(b)(6). FOIA Exemption 6 permits VA to withhold a document or information contained within a document if disclosure of the information would constitute a clearly unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under FOIA Exemption 6 where disclosure of the information, either by itself or in conjunction

with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

Specifically, the information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 6 consists of the names of non-VHA employees, name(s) of whistleblowers and unsubstantiated allegations by individuals; as the individuals associated with this information have a personal privacy interest in it. See Mueller v. U.S. Dep't of the Air Force, 63 F. Supp. 2d 738, 743-45 (E.D. Va. 1999) (unsubstantiated allegations of prosecutorial misconduct; Buckley v. Schaul, No. 03-03233, slip op. at 10-11 (W.D. Wash. Mar. 8, 2004) ("If these files were released, the public disclosure of allegations of impropriety against [regional counsel] and whomever else, without any findings of actual misconduct, could scar employees' personal and professional reputations"); McQueen v. United States, 264 F. Supp. 2d 502, 533-34 (S.D. Tex. 2003) (deciding that public interest would not be served by "disclosure of information regarding unsubstantiated allegations" made against three government employees) (See McCutchen v. HHS, 30 F.3d 183, 189 (D.C. Cir. 1994) ("The complainants [alleging scientific misconduct] have a strong privacy interest in remaining anonymous because, as 'whistle-blowers,' they might face retaliation if their identities were revealed").

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. The individuals associated with this information have a personal privacy interest in information that outweighs any public interest served by disclosure of their identities under FOIA. Consequently, I am denying portions of your request for this information under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

If you disagree with my determination to withhold the information under FOIA Exemption 6, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:

Email Address: vhafoia2@va.gov

Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)

Email: ogis@nara.gov

Fax: (202) 741-5769

Mailing address: Office of Government Information Services

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

Thank you for your interest in VA. If you have any further questions, please feel free to contact me at (319) 530-7694.

Sincerely,



Amber Heim

VHA FOIA Officer

Enclosure